

## Department of Homeland Security

## § 253.1

a period not exceeding 3 months or 2 months, respectively, from the day of arrest to afford opportunity to arrange for his or her departure from the United States.

(d) *Timely departure not effected.* If the Spanish authorities delay in sending the individual home for more than 3 months, or if the Greek authorities delay in sending the individual home for more than 2 months, from the day of his or her arrest, the individual shall be dealt with as any other alien unlawfully in the United States under the removal provisions of the Act, as amended.

(e) *Commission of crime.* If the individual has committed any crime or offense in the United States, he or she shall not be placed at the disposal of the consul until after the proper tribunal having jurisdiction in his or her case shall have pronounced sentence, and such sentence shall have been executed.

[62 FR 10388, Mar. 6, 1997]

### PART 253—PAROLE OF ALIEN CREWMEN

Sec.

253.1 Parole.

253.2 Termination of parole.

AUTHORITY: 8 U.S.C. 1103, 1182, 1282, 1283, 1285; 8 CFR part 2.

#### § 253.1 Parole.

(a) *General.* When a crewman is paroled into the United States pursuant to the provisions of this part under the provisions of section 212(d)(5) of the Act, he shall be given Form I-94, reflecting the terms of parole. A notice on Form I-259 shall be served upon the agent, and, if available, upon the owner and master or commanding officer of the vessel or aircraft, which shall specify the purpose of the parole and the conditions under which the alien crewman is paroled into the United States. The Form I-259 shall also specify the Service office to which the alien crewman is to be presented for inspection upon termination of the parole. The guarantee of payment for medical and other related expenses required by section 253 of the Act shall be executed by the owner, agent, consignee, com-

manding officer or master on Form I-510.

(b) *Afflicted crewman.* Any alien crewman afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease, or an alien crewman suspected of being so afflicted shall upon arrival at the first port of call in the United States, be paroled to the medical institution designated by the district director in whose district the port is located, in the custody (other than during the period of time he is in such medical institution) of the agent of the vessel or aircraft on which such alien arrived in the United States and at the expense of the transportation line for a period initially not to exceed thirty days, for treatment and observation, under the provisions of section 212(d)(5) of the Act. Unless the Public Health Surgeon at the first port certifies that such parole be effected immediately for emergent reasons, the district director may defer execution of parole to a subsequent port of the United States to which the vessel or aircraft will proceed, if facilities not readily available at the first port are readily available at such subsequent port of call. Notice to remove an afflicted alien crewman shall be served by the examining immigration officer upon the master or agent of the vessel or aircraft on Form I-259 and shall specify the date when and the place to which such alien crewman shall be removed and the reasons therefor.

(c) *Disabled crewman.* Any alien crewman who becomes disabled in any port of the United States, whom the master or agent of the vessel or aircraft is obliged under foreign law to return to another country, may be paroled into the United States under the provisions of section 212(d)(5) of the Act for the period of time and under the conditions set by the district director in whose district the port is located, in the custody of the agent of the vessel or aircraft for the purpose of passing through the United States and transferring to another vessel or aircraft for departure to such foreign country, by the most direct and expeditious route.

(d) *Shipwrecked or castaway seamen or airmen.* A shipwrecked or castaway alien seaman or airman who is rescued

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by or transferred at sea to a vessel or aircraft destined directly for the United States and who is brought to the United States on such vessel or aircraft other than as a member of its crew shall be paroled into the United States under the provisions of section 212(d)(5) of the Act for the period of time and under the conditions set by the district director in whose district the port is located, in the custody of the appropriate foreign consul or the agent of the aircraft or vessel which was wrecked or from which such seaman or airman was removed, for the purpose of treatment or observation in a hospital, if such is required, and for departure to the appropriate foreign country by the most direct and expeditious route.

(e) *Medical treatment or observation.* Any alien crewman denied a conditional landing permit or whose conditional landing permit issued under § 252.1(d)(1) of this chapter is revoked may, upon the request of the master or agent, be paroled into the United States under the provisions of section 212(d)(5) of the Act in the custody of the agent of the vessel or aircraft and at the expense of the transportation line for medical treatment or observation.

(f) *Crewman, stowaway, or alien removable under section 235(c) alleging persecution or torture.* Any alien crewman, stowaway, or alien removable under section 235(c) of the Act who alleges that he or she cannot return to his or her country of nationality or last habitual residence (if not a national of any country) because of fear of persecution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, or because of fear of torture is eligible to apply for asylum or withholding of removal under 8 CFR part 208. Service officers shall take particular care to ensure that the provisions of § 208.5(b) of this chapter regarding special duties toward aliens aboard certain vessels are closely followed.

(g) *Other crewmen.* In the discretion of the district director, any alien crewman not within the purview of paragraphs (b) through (f) of this section may for other emergent reasons or for reasons deemed strictly in the public

interest be paroled into the United States under the provisions of section 212(d)(5) of the Act for the period of time and under the conditions set by the district director having jurisdiction over the area where the alien crewman is located.

[22 FR 9804, Dec. 6, 1957, as amended at 26 FR 11797, Dec. 8, 1961; 32 FR 4341, Mar. 22, 1967; 32 FR 9633, July 4, 1967; 55 FR 30687, July 27, 1990; 62 FR 10389, Mar. 6, 1997; 64 FR 8495, Feb. 19, 1999]

### § 253.2 Termination of parole.

(a) *General.* At the expiration of the period of parole authorized by the district director, or when the purpose of the parole has been served, whichever is earlier, the agent upon whom the relating Form I-259 was served as provided in § 253.1, shall present the alien crewman for inspection to an immigration officer at the Service office specified in the Form I-259. If the agent cannot present the alien crewman, the agent shall immediately submit a report of the reasons therefor to the district director. The district director shall take such further action as the circumstances may require. If the vessel or aircraft on which the alien crewman arrived in the United States is still in the United States when he is presented for inspection, he shall be treated as an applicant for a conditional landing permit and his case shall be dealt with in the same manner as any other applicant for a conditional landing permit. If the vessel or aircraft on which the alien crewman arrived in the United States departed before he was presented for inspection, the agent shall be directed by means of written notice on Form I-259 to arrange for the removal of the alien crewman from the United States, and if such alien crewman thereafter departs voluntarily from the United States within the time specified by the district director, such departure shall not be considered a deportation within the meaning of this section.

(b) *Revocation of parole.* When an immigration officer has reason to believe that an alien crewman paroled into the United States pursuant to the provisions of § 253.1 has violated the conditions of parole, the immigration officer

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may take such alien crewman into custody without a warrant of arrest. Following such action, the alien crewman shall be accorded, without undue delay, an examination by another immigration officer. If it is determined on the basis of such examination that the individual detained is an alien crewman who was paroled into the United States pursuant to the provisions of §253.1 and that he has violated the conditions of the parole or has remained in the United States beyond the period authorized by the district director, the district director shall cause to be served upon the alien crewman a written notice that his parole has been revoked, setting forth the reasons for such action. If the vessel or aircraft upon which the alien crewman arrived in the United States is still in the United States, the alien crewman shall be delivered to that vessel or aircraft and Form I-259 shall be served upon the master or commanding officer of the vessel or aircraft directing that the alien crewman be detained on board the vessel or aircraft and deported from the United States. A copy of Form I-259 shall also be served on the agent for the vessel or aircraft. If the vessel or aircraft upon which the alien crewman arrived in the United States has departed from the United States, the agent or owner of the vessel or aircraft shall be directed by means of a notice on Form I-259 to effect the deportation of the alien crewman from the United States. Pending deportation, the alien crewman shall be continued in custody, unless the district director authorizes his release on parole under such conditions, including the posting of a suitable bond, as the district director may prescribe.

[32 FR 4342, Mar. 22, 1967]

### PART 258—LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN

Sec.

258.1 Limitations—General.

258.2 Exceptions.

258.3 Action upon arrival.

AUTHORITY: 8 U.S.C. 1101, 1103, 1281; 8 CFR part 2.

SOURCE: 57 FR 40834, Sept. 8, 1992, unless otherwise noted.

#### § 258.1 Limitations—General.

(a) *Longshore work defined.* Longshore work means any activity relating to the loading and unloading of cargo, the operation of cargo-related equipment [whether or not integral to the vessel], and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof.

(1) Longshore work is not included in the term “normal operation and service on board a vessel” for the purposes of section 101(a)(15)(D)(i) of the Act except as provided in sections 258 (c) or (d) of the Act.

(2) A vessel that uses nonimmigrant crewmen to perform longshore work, other than the activities allowed in particular circumstances under §258.2 (a)(2), (b), or (c) of this part, shall be subject to a fine under section 251(d) of the Act.

(b) *Port defined.* For purposes of this section, the term *port* means a geographic area, either on a seacoast, lake, river, or other navigable body of water, which contains one or more publicly or privately owned terminals, piers, docks, or maritime facilities, which is commonly regarded as a port by other government maritime related agencies, such as the Maritime Administration.

#### § 258.2 Exceptions.

Any master or agent who uses nonimmigrant crewmen to perform longshore work at any United States port under the exceptions provided for in paragraphs (a)(2), (b), or (c) of this section must so indicate on the crew manifest and shall note under which exception the work will be performed.

(a) *Hazardous cargo.* (1) The term *longshore work* does not include the loading and unloading of any cargo for which the Secretary of Transportation has prescribed regulations under authority contained in chapter 37 of title 46, United States Code, section 311 of the Federal Water Pollution Control Act, section 4106 of the Oil Pollution Act of 1990, or section 105 or 106 of the Hazardous Materials Transportation Act.